

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

SIERRA CLUB,  
Plaintiff,

v.

No. 3:22-cv-01054

TENNESSEE VALLEY AUTHORITY,  
Defendant.

**TENNESSEE VALLEY AUTHORITY'S**  
**CROSS-MOTION FOR SUMMARY JUDGMENT**

Pursuant to Federal Rule of Civil Procedure 56 and in accordance with the Court's Initial Case Management Order (Doc. 31), Defendant Tennessee Valley Authority ("TVA") respectfully moves for summary judgment on Plaintiff's National Environmental Policy Act ("NEPA"), 42 U.S.C. §§ 4321 et seq., claims challenging TVA's decision to construct and operate 10 natural gas-fired aeroderivative combustion turbine ("Aero CT") units at TVA's existing Johnsonville Combustion Turbine Reservation in Humphreys County, Tennessee.<sup>1</sup>

For the reasons set forth in TVA's contemporaneously filed memorandum of law, TVA's cross-motion for summary judgment is due to be granted because TVA's project-specific decision for the Johnsonville Aero CTs was rendered in full compliance with NEPA. TVA prepared a detailed environmental assessment ("EA") that took a "hard look" at the impacts, including climate-related impacts, of the proposed action, considered a reasonable range of alternatives, and determined that the proposed project would not have a significant impact on the environment.

---

<sup>1</sup> TVA's Rule 12(b)(1) motion is currently pending before the Court (Doc. 26), and "is the proper vehicle for considering whether subject matter jurisdiction exists in a particular case." *Ogle v. Church of God*, 153 F. App'x 371, 375 (6th Cir. 2005) (citing *Ohio Nat'l Life Ins. Co. v. United States*, 922 F.2d 320, 325 (6th Cir. 1990)). For the reasons set forth in support of TVA's pending motion to dismiss, which TVA incorporates by reference here (Docs. 26–29, 39–41, 43), this Court lacks subject matter jurisdiction to hear Sierra Club's claims because Sierra Club has failed to establish Article III standing whether in its own right or in a representational capacity.

NEPA requires nothing more. Because TVA satisfied its NEPA obligations, the Court should grant TVA's cross-motion for summary judgment and deny Sierra Club's cross-motion for summary judgment.

Respectfully submitted,

s/Lane E. McCarty

David D. Ayliffe, (TN BPR 024297)

Associate General Counsel

F. Regina Koho (TN BPR 029261)

Lane E. McCarty (TN BPR 028340)

Sydney D. Nenni (TN BPR 038898)

OFFICE OF THE GENERAL COUNSEL

Tennessee Valley Authority

400 West Summit Hill Drive

Knoxville, Tennessee 37902-1401

Telephone 865.632.2396

lemccarty@tva.gov

Attorneys for Tennessee Valley Authority

120497051

## CERTIFICATE OF SERVICE

I certify that the foregoing document was filed electronically through the Court's ECF system on the date shown in the document's ECF footer. Notice of this filing will be sent by operation of the Court's ECF system to all parties as indicated on the electronic filing receipt. Parties may access this filing through the Court's ECF system.

Amanda Rosemary Garcia, Esq.  
O.W. Bussey, III, Esq.  
1033 Demonbreun St., Suite 205  
Nashville, Tennessee 37203  
615.921.9470  
agarcia@selctn.org  
tbussey@selctn.org

Deirdre Dlugoleski, Esq.  
Gregory D. Buppert, Esq.  
Spencer Thomas Gall, Esq.  
120 Garrett Street, Suite 400  
Charlottesville, Virginia 22902  
434.977.4090  
ddlugoleski@selcva.org  
gbuppert@selcva.org  
sgall@selcva.org

*Attorneys for Plaintiff*

s/Lane E. McCarty  
Attorney for Tennessee Valley Authority